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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,876	03/15/2004	Masayuki Nakamoto	250291US2SRD CONTINUATION	8344
22850	7590	05/23/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			GUHARAY, KARABI	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/799,876	NAKAMOTO, MASAYUKI	
	Examiner	Art Unit	
	Karabi Guharay	2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 February 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-10, 12, 14-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 14-17, 20 and 22 is/are allowed.
- 6) Claim(s) 19 and 21 is/are rejected.
- 7) Claim(s) 2-10, & 12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 3/22/05.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Amendment, filed on 2/28/05 has been considered and entered.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 19, 21, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 & 20 of U.S. Patent No. 6891320 in view of Kawate et al. (US 2002/0065516).

Regarding claim 19 & 21, both instant application and the claims 8 & 20 patent # 6891320 discloses a filed emission cold cathode of a lateral type comprising a support substrate, a cathode and a gate electrode disposed on the support substrate having first side surface and a second side surface, which oppose each other with a gap interposed between and an emitter disposed on the first side surface to oppose the second surface an emitter disposed on the first side on the first substrate to oppose the second surface and configured to emit electrons, the emitter comprising a metal layer formed on the cathode electrode, and a plurality of granular or rod-shaped micro-bodies supported by the metal layer in a dispersed state and consisting essentially of a metal material; and

a gate projection disposed on the second side surface to oppose the first side surface, the gate projection comprising a gate metal layer consisting essentially of the same material as that of the metal layer, and a plurality of gate micro-bodies supported by the gate metal layer in a dispersed state and consisting essentially of the same material as that of the micro-bodies.

But the patent # 6891320 does not claim an array of cathode electrodes and array of gate electrodes alternately disposed on the support to define a plurality of pairs of cathode electrode and gate electrode in a matrix format.

However, Kawate et al. disclose a field emission cold cathode device having array of cathode and array of gate electrodes (see Fig 8-9) where cathode and gate are disposed on a support substrate alternately (see Fig 6) interposing a gap between them. And further teaches that array of field emission cold cathode and gates are arranged in the matrix form in order to form an image forming apparatus.

Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange array of cathodes and array of gate electrodes to form an image display device using such field emission cold cathode device of lateral type.

Allowable Subject Matter

Claims 14-17 & 20, and 22 are allowed over the prior art of record.

Claims 2-10 & 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for allowance are presented in previous action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karabi Guharay whose telephone number is (571) 272-2452. The examiner can normally be reached on Monday-Friday 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar D. Patel can be reached on (571) 272-2457. The fax phone number for the organization is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Karabi Guharay
Karabi Guharay
Patent Examiner
Art Unit 2879